

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 15 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

JORGE ACEVEDO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-74216

Agency No. A92-738-516

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 9, 2006**
Pasadena, California

Before: D.W. NELSON, THOMAS, and TALLMAN, Circuit Judges.

Petitioner Jorge Acevedo-Gonzalez (“Acevedo”) petitions for review of the Board of Immigration Appeals’ (“BIA”) streamlined affirmance of his final order of removal. After conceding removability, Acevedo filed an application for

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cancellation of removal. The Immigration Judge (“IJ”) denied his application, finding him ineligible because of a prior domestic violence conviction. *See* 8 U.S.C. § 1227(a)(2)(E)(i) (an alien who has been convicted of a “crime of domestic violence” is deportable); 8 U.S.C. § 1229b(b)(1)(C) (an admitted alien is not eligible for cancellation of removal if that alien has been convicted of an offense under 8 U.S.C. § 1227(a)(2)). Alternatively, the IJ concluded that even if Acevedo was eligible for this form of relief, he had failed to show the requisite exceptional and extremely unusual hardship. *See* 8 U.S.C. § 1229b(b)(1)(D). The BIA summarily affirmed.

We have jurisdiction to review whether Acevedo is eligible for cancellation of removal, *see* 8 U.S.C. § 1252(a)(1), (a)(2)(D); however, we do not have jurisdiction to review the IJ’s discretionary judgment that Acevedo failed to show exceptional and extremely unusual hardship. *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 888 (9th Cir. 2003) (quoting 8 U.S.C. § 1252(a)(2)(B)). Because it is impossible to discern whether the BIA affirmed the IJ on a ground over which this Court has jurisdiction, we must grant the petition and remand back to the agency for clarification. *See Lanza v. Ashcroft*, 389 F.3d 917, 919-20 (9th Cir. 2004).

PETITION FOR REVIEW GRANTED; REMANDED.